

REMARKS

Claims 1-32 are all the claims pending in the application.

The Examiner rejected claims 1-32 under 35 U.S.C. § 102(b) as allegedly being in public use or on sale more than a year before the filing date of the provisional application filing date of June 16, 2003. As evidence, the Examiner relies upon "Simon Willison's Weblog" (Willison, hereafter) and "Glish.com" (Glish, hereafter).

The present application is entitled to the benefit of priority from the Monday, June 16, 2003 filing date of the 60/478,345 patent application.

The Willison prior art relied upon by the Examiner bears a date of June 15, 2002. The Willison prior art refers to a notice on Glish.com, which is purportedly shown in the Glish reference bearing a date of June 15, 2002.

If it were true that the Meetup site mentioned in Willison and Glish met each and every limitation of the claims, then the Willison and Glish prior art references might indicate activities that could have "started the clock" with respect to 35 U.S.C. § 102(b). Assuming the foregoing to be true, Applicant would have been required to file an application on or before June 15, 2003. To put it another way, the statute 35 U.S.C. § 102(b) gives Applicant a one year grace period in which to file an application.

Applicant did file such an application (namely, application 60/478,345), but June 14, 2003 fell on a Saturday and June 15, 2003 fell on a Sunday. The USPTO is closed on both Saturday and Sunday. When the last day for taking any action falls on a Saturday, Sunday, or a Federal holiday within the District of Columbia, the action is considered timely if the action is taken on the next succeeding business day. Therefore, the filing of the 60/478,345 application on

Monday, June 16, 2003 was sufficient to avoid the "public use or on sale" bar date of the June 15, 2002 Willison and Glish references.

Applicant's line of reasoning here is supported by the MPEP, in section 706.02(a)(II)(A), which states, in relevant part, the following (emphasis supplied by Applicant):

Where the last day of the year dated from the date of publication falls on a Saturday, Sunday or Federal holiday, the publication is not a statutory bar under 35 U.S.C. 102(b) if the application was filed on the next succeeding business day. Ex parte Olah, 131 USPQ 41 (Bd. App. 1960) (The Board in Olah held that 35 U.S.C. 21(b) is applicable to the filing of an original application for patent and that applicant's own activity will not bar a patent if the 1-year grace period expires on a Saturday, Sunday, or Federal holiday and the application's U.S. filing date is the next succeeding business day.)

Since the situation mentioned in Ex parte Olah is factually similar to the present situation, the same result should obtain, namely, that whatever activity the Examiner has shown as of June 15, 2002, does not constitute a bar to Applicant's patent application since the one year grace period expired on a Sunday, and the application's U.S. filing date is the next succeeding business day.

Applicant therefore respectfully requests the Examiner to withdraw this rejection of claims 1-32.

In view of the above, reconsideration and allowance of this application are now believed to be in order, and such actions are hereby solicited. If any points remain in issue which the Examiner feels may be best resolved through a personal or telephone interview, the Examiner is kindly requested to contact the undersigned attorney at the telephone number listed below.

Applicant herewith petitions the Director of the USPTO to extend the time for reply to the above-identified Office Action for an appropriate length of time, if necessary. Unless a check is attached, any fee due under 37 C.F.R. § 1.17(a) is being paid via the USPTO Electronic Filing System, or if not paid through EFS, the USPTO is directed and authorized to charge all required fees, except for the Issue Fee and the Publication Fee, to Deposit Account No. 19-4880. Please also credit any overpayments to said Deposit Account.

Respectfully submitted,

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